erty taken may, in the absence of any evidence of damage by usage or deterioration, be assessed as damages and collected by the successful party in the original suit. *Nitz* v. *Bolton,* 71 Mich. 388; *Cox* v. *Burdett,* 23 Pa. Super. Ct. 346. But in so far as such damages are assessable they must be claimed on the original suit. The successful defendant cannot be permitted to elect as to when he will have them assessed. *Stevens* v. *Tuite,* 104 Mass. 329, 336; *Washington Ice Co.* v. *Webster,* 62 Me. 341, 16 Am. Rep. 462. Where the property, if it could have been returned, was converted, then interest on its value from the rendition of the judgment of return is assessable. *Walls* v. *Johnson,* 16 Ind. 374.

DAMAGES—WHAT MAY BE CONSIDERED IN MITIGATION IN ACTION FOR LIBEL.—The defendant printed in its newspaper a rather comprehensive account of an unfortunate love affair between the plaintiff's intestate, a young hospital nurse, and a married man whom she had as a patient. The assertions set forth in the account were partly true and partly false, but the conduct of the intestate had been such as to lead one to suspect the truth of the whole of the alleged libelous charge. *Held,* that the jury had a right to take into account the truth of the various portions of the alleged libel and also the provocating conduct of the plaintiff's intestate in mitigation of damages. *Gressman* v. *Morning Journal Ass'n* (1910), — N. Y. —, 90 N. E. 1131.

"In an action for defamation two classes of facts are pleadable and provable in mitigation of damages: (1) Such as impeach the character of the plaintiff; (2) such as tend to negative the malicious motive of the defendant." 25 CYC. 417. Evidence offered in support of a plea of justification may be considered in mitigation of damages even though insufficient to sustain the plea. *Thomas* v. *Dunaway,* 30 Ill. 373; *Sibley* v. *Marsh,* 7 Pick. 38; *Bisbey* v. *Shaw,* 12 N. Y. 67; *Wilson* v. *Apple,* 3 Ohio 270. Otherwise the cardinal rule of damages, that the compensation should be exactly commensurate with the injury, would be abrogated. *Allison* v. *Chandler,* 11 Mich. 542. And where there is a reasonable excuse for the defendant, arising out of provocation or conduct of the plaintiff, although not sufficient to amount to a justification, not only can there be no exemplary damages, but the circumstances must be considered by way of mitigation. *Robison* v. *Rupert,* 23 Pa. 523; *Kiff* v. *Youmans,* 86 N. Y. 324, 330, 40 Am. Rep. 543.

DEEDS—DELIVERY—GRANTEE'S NAME BLANK.—Plaintiff, being the owner of the lot in question, exchanged it with one Pope, and delivered to him a deed, in blank as to the name of the grantee. Pope traded the lot to Odett, delivering to him the same deed, with the grantee's name still in blank. Odett subsequently traded the lot to the defendant, and delivered to him the same deed, inserting the defendant's name as grantee in the blank space. In an action by plaintiff to quiet title, *held,* that the deed was effectual to vest title in any person, whose name should thereafter be inserted in the blank by the person receiving it, or by any subsequent holder. *Augustine* v. *Schmitz* (1910), —— Ia. —, 124 N. W. 607.

A deed with the name of the grantee left blank, although complete in

other respects, is inoperative as a conveyance. *Allen* v. *Winthrow,* 110 U. S. 119; *Clark* v. *Butts,* 73 Minn. 361, 76 N. W. 199; *Lund* v. *Thackery et al.,* 18 S. D. 113, 99 N. W. 856. If the blank is subsequently filled by one having authority to fill it the instrument becomes valid. That such authority can be given only by an instrument of as high a character as the deed see *Upton* v. *Archer,* 41 Cal. 85, 10 Am. Rep. 266 and note; *Mickey* v. *Barton,* 194 Ill. 446, 62 N. E. 802; *Ingram* v. *Little,* 14 Ga. 173, 58 Am. Dec. 549; *Lund* v. *Thackery,* 18 S. D. 113. In many recent decisions it is held that parol authority to insert the grantee's name is sufficient. *McCleery* v. *Wakefield,* 76 Ia. 529, 2 L. R. A. 529; *Bank* v. *Fleming,* 63 Kan. 139, 65 Pac. 213; *Thummel* v. *Holden,* 149 Mo. 677, 51 S. W. 404; *Lafferty* v. *Lafferty,* 42 W. Va. 783, 26 S. E. 262; *Cribben* v. *Deal,* 21 Ore. 211. The principal case goes a step farther and holds that such authority may be implied from the mere delivery of the deed. This decision would seem to find support in the previous holdings of the Iowa Court. *Hall* v. *Kary,* 133 Ia. 465, 110 N. W. 930; *Creveling* v. *Banta,* 138 Ia. 47, 115 N. W. 598; and possibly in the following cases, *Van Etta* v. *Evenson,* 28 Wis. 33, 9 Am. Rep. 486; *Burk* v. *Johnson,* 146 Fed. 209.

EQUITY—INJUNCTION TO RESTRAIN CUTTING OF TIMBER—POLICY OF STATE. —Petitioners claim title to certain lands in Georgia containing pine woods valuable for timber and turpentine. Under a fraudulent conveyance defendand had boxed trees, taken turpentine, and threatened to cut trees. Petitioners sought an injunction to restrain the acts of the defendant. *Held,* the turpentine industry is so important to the State of Georgia, and the remedy in damages is of such doubtful adequacy, that a court of equity may properly intervene. *Graves* v. *Ashburn* (1909), 30 Sup. Ct. 108.

The Circuit Court (149 Fed. 968, 79 C. C. A. 478) denied an injunction in this case on the ground that there was an adequate remedy at law, as the trees were merely forest trees, the value of which could be easily estimated, and as the insolvency of the defendant was not shown. This view presents the conservative policy that several of the courts still cling to. *Carney* v. *Hadley,* 32 Fla. 344, 22 L. R. A. 233; *Gause* v. *Perkins,* 56 N. C. (3 Jones Eq.) 177, 69 Am. Dec. 728; *Lazzell* v. *Garlow,* 44 W. Va. 466, 30 S. E. 171; *Thomas* v. *James,* 32 Ala. 723. But the modern tendency is to extend the equitable relief to cases of the cutting of mere forest trees, if such timber constitutes the principal value of the land. 2 BEACH, MODERN EQ. JUR., § 720; *King* v. *Stewart,* 84 Fed. 546; *Buskirk* v. *King,* 72 Fed. 22. The cutting of timber has been classed with the extracting of ores from a mine, or the removal of coal, as an act going to the destruction of the substance of the estate. *Erhardt* v. *Boaro,* 113 U. S. 527, 28 L. Ed. 1116, 5 Sup. Ct. 560. An added element to be considered in the granting of such an injunction as presented by the principal case, is the importance of the particular industry to the state.

FEDERAL PROCEDURE—REMOVAL OF CAUSES—FRAUDULENT JOINDER.—The plaintiff brought this action in the state court of Kentucky against the Illinois